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FEB 27 2008

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

WDB

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CV No. 08

1187

DEFENDANTS INTERNATIONAL PAPER
COMPANY'S AND XPEDX'S NOTICE OF
REMOVAL OF ACTION UNDER 28
U.S.C. § 1441(B) (FEDERAL QUESTION)

Action Filed: January 11, 2008

MICHAEL J. HOGAN, #60208
PAUL J. BAUER, #202752
DOWLING, AARON & KEELER, INC.
8080 North Palm Avenue, The District Court
Fresno, CA 93711 NO. DIST. OF CA.
Telephone: (559) 432-4500
Facsimile: (559) 432-4590
E-mail: pbauer@daklaw.com

Attorneys for Defendants
INTERNATIONAL PAPER COMPANY,
d/b/a xpedx

LAKESHA WARE,

Plaintiff,

v.

INTERNATIONAL PAPER CO., aka
INTERNATIONAL PAPER COMPANY, AKA
INTERNATIONAL PAPER, AKA XPEDX,
XPEDX, a division of INTERNATIONAL
PAPER, XPEDX, Does 1 to 10 Inclusive,

Defendants.

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

Defendants International Paper Company and xpedx (collectively "Defendants")
hereby remove this action to this Court pursuant to 28 U.S.C. §§ 1331, 1441, and 1443. Plaintiff
has asserted causes of action that arise under the Constitution, treaties or laws of the United States.
Specifically, Plaintiff alleges that Defendants discriminated against her in violation of Title VII of
the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et seq. In support thereof, Defendants state as
follows:

1. On January 28, 2008, Defendants International Paper Company and xpedx
were served with a copy of the Summons on Amended Complaint and the Amended Complaint
styled *Lakesha Ware vs. International Paper Co., aka International Paper Company, aka
International Paper, aka xpedx, xpedx, a division of International Paper, xpedx Does 1 to 10.*

1 *Inclusive*, Case Number RG07358186, pending in the Alameda County Superior Court of
2 California. Copies of the foregoing documents are attached hereto as Exhibit A. These documents
3 constitute all pleadings, process and other documents served upon Defendants in this action. These
4 documents were the initial pleadings served upon Defendant setting forth the claims upon which
5 Plaintiff's action is based.

6 2. Upon information and belief, Plaintiff is currently, and was at the
7 commencement of this action, a citizen of the state of California.

8 3. Defendant International Paper Company is incorporated in the state of New
9 York and, at all relevant times, has had its principal place of business in the state of Tennessee.

10 4. Defendant xpedx is a division of International Paper Company.

11 5. Venue is proper in this Court.

12 6. Defendants' Notice of Removal has been filed within 30 days after service
13 of Plaintiff's Complaint in accordance with 28 U.S.C. § 1446(b).

14 INTRADISTRICT ASSIGNMENT

15 Pursuant to Civil L.R. 3-2(c) and (d), venue is proper as this Court serves the county
16 in which this action arises.

17 Copies of this Notice of Removal, as well as a Notice of Filing of Notice of
18 Removal, have been mailed to Plaintiff's counsel, and are being filed with the Clerk of the Alameda
19 County, California Clerk of Courts.

20 WHEREFORE, Defendant removes this action to the United States District Court
21 for the Northern District of California.

22 Dated: February 27, 2008.

23
24 By: /s/ PAUL J. BAUER
25 PAUL J. BAUER
26 DOWLING, AARON & KEELER, INC.
27 Attorneys for Defendants
28 INTERNATIONAL PAPER COMPANY,
d/b/a xpedx

EXHIBIT A

A Waters/Kluwer Company

01/29/2008

CT Log Number 513026975

1 1/2 INCHES

re: Process Served in California

FOR: xpedx (Assumed Name) (Domestic State: NY)
International Paper Company (True Name)

ENCLOSED ARE COPIES OF LEGAL PROCEEDS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

SIGNED: C T Corporation System
 PER: Nancy Flores
 ADDRESS: 818 West Seventh Street
 Los Angeles, CA 90017
 TELEPHONE: 213-337-4815

1/29/08 - 7:30 PM

**SUMMONS ON AMENDED COMPLAINT
 (CITACION JUDICIAL)**

SUM-100

**NOTICE TO DEFENDANT:
 (AVISO AL DEMANDADO):**

INTERNATIONAL PAPER CO., aka INTERNATIONAL PAPER COMPANY, aka INTERNATIONAL PAPER, aka XPEDX, XPEUX, a division of INTERNATIONAL PAPER, XPEDX, DOES 1 TO 10, INCLUSIVE, YOU ARE BEING SUED BY PLAINTIFF:
 (LO ESTA DEMANDANDO EL DEMANDANTE):
 LAKESHA WARE

FOR COURT USE ONLY
 (SOLAMENTE PARA USO DE LA CORTE)

**ENDORSED
 FILED
 ALAMEDA COUNTY**

JAN 11 2008

CLERK OF THE SUPERIOR COURT
 By KIM PHILLIPS, Deputy

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DIAS DE CALENDARIO después de que le entreguen este citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no le protegen. Su respuesta por escrito debe que estar en formato legal correcto el día que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelpspanish), en la biblioteca de leyes de su condado o en la corte que le queda más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de tasas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelpspanish) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:

(El nombre y dirección de la corte es):

Alameda County Superior Court
 1225 Fallon Street
 Oakland, CA 94612

CASE NUMBER: RG07358186
 (Número del Caso):

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Michael C. Cohen, Esq. LAW OFFICES OF MICHAEL C. COHEN
 1814 Franklin Street, Suite 900 Oakland, CA 94612
 510-832-6466 11 2008

DATE:

PAUL S. SWEETEN, Clerk, by
 (Secretario)

Kim Phillips, Deputy
 (Adjunto)

(Fecha)
 (For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

(REAL)

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
 2. ☐ as the person sued under the fictitious name of (specify):

3. ☒ on behalf of (specify): XPEDX

under: ☒ CCP 416.10 (corporation)

☐ CCP 416.20 (defunct corporation)

☐ CCP 416.40 (association or partnership)

☐ other (specify):

4. ☐ by personal delivery on (date):

☐ CCP 416.80 (minor)

☐ CCP 416.70 (conservatee)

☐ CCP 416.80 (authorized person)

1 Michael C. Cohen, Esq., Bar No. 65487
2 LAW OFFICES OF MICHAEL C. COHEN
3 1814 Franklin Street, Suite 900
4 Oakland, CA 94612
5 (510) 832-6436

6 Attorneys for Plaintiff

ENDORSED
FILED
ALAMEDA COUNTY

JAN 11 2008

CLERK OF THE ALAMEDA COUNTY
By KIMEL DILLON, Deputy

7 SUPERIOR COURT OF CALIFORNIA COUNTY OF ALAMEDA
8 UNLIMITED JURISDICTION
9

10 LAKESHA WARE,

11 Plaintiff,

12 vs.

13 INTERNATIONAL PAPER CO., aka
14 INTERNATIONAL PAPER COMPANY,
15 aka INTERNATIONAL PAPER, aka
16 XPEDX, XPEDX, a division of
17 INTERNATIONAL PAPER, XPEDX
18 DOES 1 TO 10, INCLUSIVE,

19 Defendants.

Case No. RG07358186

AMENDED COMPLAINT FOR
VIOLATION OF STATE STATUTES
PROHIBITING EMPLOYMENT
DISCRIMINATION, VIOLATION OF
TITLE VII OF THE CIVIL RIGHTS
ACT OF 1964, AS AMENDED,
BREACH OF IMPLIED COVENANT OF
GOOD FAITH AND FAIR DEALING,
WRONGFUL TERMINATION IN
VIOLATION OF PUBLIC POLICY,
FAMILY LEAVE ACT

DEMAND FOR JURY TRIAL

20 GENERAL ALLEGATIONS

21 Plaintiff, Lakesha Ware, alleges:

22 1. Plaintiff Lakesha Ware (hereinafter referred to as
23 "plaintiff") is an African American adult woman, who at all
24 relevant times lived and worked in the county of Alameda, state
25 of California.

26 2. Plaintiff is informed and believed that at all times
27 alleged herein, defendant International Paper Co., is a
28 corporation, doing business in the state of California, county of

1 Alameda. Plaintiff is informed and believes and thereon alleges
2 that International Paper Co. is also known as International Paper
3 Company and also known as International Paper. Plaintiff is
4 informed and believes and thereon alleges that International
5 Paper Company, is also known as XPEDX. Plaintiff is informed and
6 believes that XPEDX is a division of International Paper Company.

7 4. Plaintiff is informed and believes and thereon alleges
8 that at all times herein mentioned XPEDX is a corporation doing
9 business in Alameda County, State of California.

10 5. Defendant, International Paper, aka International Paper
11 Company, aka XPEDX, (hereinafter referred to "International"), and
12 defendant XPEDX, and each of them, at all times alleged herein,
13 except as otherwise stated herein, was plaintiff's employer, and
14 subject to the Fair Employment and Housing Act, Government Code
15 §12900 et seq., in that said defendants, and each of them,
16 regularly employed more than (50) people.

17 6. Defendant, International, and defendant XPEDX, and each
18 of them, except as otherwise stated herein was an employer,
19 subject to suit under Title VII of the Civil Rights Act of 1964,
20 as amended.

21 7. Plaintiff is ignorant of the true names and capacities
22 of the defendants sued herein as DOES 1 to 10, inclusive and
23 therefore sues these defendants by such fictitious names.
24 Plaintiff will amend this complaint to allege their true names
25 and capacities when ascertained. Plaintiff is informed and
26 believes and thereon alleges that each of the fictitiously named
27 defendants is responsible as hereinafter shown for the

28 -2-

1 occurrences and injuries alleged in this complaint.

2 8. Plaintiff is informed and believes, and thereon alleges,
3 that at all times herein mentioned, each DOE, defendant named
4 herein was the agent and/or employee of International and the
5 remaining DOE defendants, and in doing the things hereinafter
6 alleged, was acting within the course and scope of such agency
7 and/or employment.

8 9. The unlawful employment practices complained of herein
9 occurred in Alameda County, state of California.

10 10. Plaintiff is a person protected by the California Fair
11 Employment and Housing Act, Government Code §§ 12926, 12940 et
12 seq., in that he is an African American woman, a member of a
13 racial minority group. Plaintiff was a disabled employee.
14 Plaintiff is informed and believes and thereon alleges that her
15 employer perceived her as having a disability. Plaintiff
16 suffered an on the job injury, she applied for workers'
17 compensation disability benefits. She was receiving workers'
18 compensation disability benefits at the time International and or
19 XPEDX fired her from her job.

20 11. Plaintiff is a person protected by Title VII of the
21 Civil Rights Act of 1964, as amended. Plaintiff is an African
22 American woman, a member of a racial minority group. Plaintiff
23 was a disabled employee. Plaintiff is informed and believes and
24 thereon alleges that her employer perceived her as having a
25 disability. Plaintiff suffered an on the job injury, she applied
26 for workers' compensation disability benefits. She was receiving
27 workers' compensation disability benefits at the time

28 -3-

1 International and or XPEDX fired her from her job.

2 12. Plaintiff began working for International, and or XPEDX
3 on or about April 20, 2001, as a store associate. She
4 satisfactorily performed all of her duties, and the conditions of
5 said employment, with reasonable competence, consistent with the
6 practices and policies of International, and or XPEDX, and each
7 of them, until said defendant and or each of them unlawfully
8 terminated her employment, effective May 18, 2007.

9 13. Plaintiff sustained an on the job injury while working
10 in the course and scope of her job with International and or
11 XPEDX.

12 14. Plaintiff filed a claim for workers' compensation
13 benefits for her on the job injury. Plaintiff received workers'
14 compensation benefits because of her on the job injury.

15 15. Plaintiff is informed and believes and thereon alleges
16 that her employer unlawfully terminated her employment because of
17 her race, sex, and or her disability, and or her perceived
18 disability, and or in retaliation against her because she filed a
19 workers' compensation claim and or received workers' compensation
20 benefits.

21 16. Plaintiff exhausted her administrative remedy before
22 filing his lawsuit herein. Plaintiff filed a complaint with the
23 Equal Employment Opportunity Commission, (hereinafter referred to
24 as "EEOC"). A copy of her EEOC complaint is marked Exhibit A,
25 attached hereto and incorporated herein.

26 17. Plaintiff received a Right To Sue Letter from EEOC, and
27 filed her lawsuit herein within ninety days of her receipt of her
28

1 EEOC Right To Sue Letter. A copy of her Right To Sue Letter from
2 EEOC is marked Exhibit B, attached hereto and incorporated herein
3 by this reference.

4 18. Plaintiff is informed and believes and thereon alleges
5 that Defendant, and each of them was timely served a copy of
6 plaintiff's OFER complaint and a copy of the Notice of Case
7 Closure.

8 19. Plaintiff, thereafter filed another complaint against
9 International Paper Co. A copy of plaintiff's EEOC complaint is
10 marked Exhibit C, attached hereto and incorporated herein by this
11 reference.

12 20. Plaintiff received a Right To Sue Letter from EEOC and
13 then timely filed her lawsuit herein, within ninety days of
14 receipt of her Right To Sue letter from EEOC. A copy of his
15 Right To Sue Letter from EEOC is marked Exhibit D, attached
16 hereto and incorporated herein.

17 21. At all times relevant hereto, plaintiff's supervisor
18 and manager(s) were the agents/and or employees of defendant and
19 DOES 1 to 10, inclusive, and each of them, in doing the things
20 hereinafter alleged, were acting within the course and scope of
21 such agency and/or employment.

22 22. At all relevant times, defendant, and Does 1 to 10,
23 inclusive, and each of them, knew or should have known that its
24 managerial employee(s), was discriminating against plaintiff
25 because of plaintiff's race, and or sex, and or disability, and
26 or perceived disability and or retaliating against plaintiff
27 because of plaintiff filed her workers' compensation complaint
28

1 and or was receiving workers' compensation benefits.

2 23. The actions and failures to act of defendant and DOES
3 1 to 10, inclusive, and each of them, were severe and pervasive
4 such that it created a hostile work environment for plaintiff.

5 24. Defendant and DOES 1 to 10, inclusive, and each of
6 them, despite knowledge and or adequate opportunity to learn of
7 the misconduct of its agents and or employees, retained said
8 defendants, agents and or employees in its service, and
9 thereafter adopted, approved and ratified the acts, omissions and
10 misconduct of said defendants.

11 25. Defendants, and each of them, discriminated against
12 plaintiff because of plaintiff's race, and or her sex, and or
13 disability and or perceived disability and or in retaliation
14 against her for filing her workers' compensation claim and or her
15 receiving workers' compensation benefits by doing the acts
16 complained of herein; said acts included but are not limited to:

- 17 a. Terminating plaintiff's employment;
18 b. Denying plaintiff employment opportunities;
19 c. Failing to take all reasonable immediate and appropriate
20 corrective action to remedy the unlawful employment
21 discrimination and or retaliation;
22 d. Failing to take all reasonable steps necessary to prevent
23 unlawful discrimination and or retaliation from occurring on
24 the job;

25 26. As a proximate cause of the alleged acts of defendant
26 and each of them, plaintiff has suffered emotional distress, loss
27 of income and will continue to suffer emotional distress, future

1 income loss, wage loss, and attorney fees and other incidental
2 and out-of pocket expenses, all to plaintiff's damage in an
3 amount to be shown according to proof.

4 27. Plaintiff hereby demands a jury trial.

5 **FIRST CAUSE OF ACTION**
6 **VIOLATION OF GOVERNMENT CODE §§12920,**
7 **12921, and 12940 et seq.**

8 28. Plaintiff realleges and incorporates by reference
9 Paragraphs 1 through 27 of the Complaint as though fully set
10 forth at length herein.

11 29. In doing each and all of the acts alleged herein, said
12 defendants, intentionally, willfully, and without justification,
13 attempted to and did deprive Plaintiff of her rights, privileges
14 and immunities secured to her by the Constitution and laws of the
15 State of California, particularly his right to be free from
16 discrimination and/or harassment in employment on the grounds of
17 race as provided by Government Code §§ 12920, 12921, 12940, et
18 seq..

19 30. Plaintiff exhausted her administrative remedy prior to
20 filing her lawsuit herein.

21 31. Plaintiff received a Right To Sue Letter from DEEH, and
22 then filed his lawsuit herein within one year from the date of
23 his Right To Sue Letter.

24 32. Defendant's conduct proximately caused plaintiff to
25 retain an attorney to represent him and incur attorney fees. The
26 amount of attorney fees has not been fully determined at this
27 time; the amount of attorney fees will be shown according to
28 proof at the time of trial.

1 33. Defendant's conduct and or the conduct of each
2 defendant, alleged herein proximately cause plaintiff to lose
3 income, and employment benefits, and suffer emotional distress,
4 mental anguish, anxiety and worry, and incur attorney fees, and
5 is reasonably certain to proximately cause plaintiff to lose
6 income and suffer emotional distress, mental anguish, anxiety and
7 worry, and incur attorney fees, in the future all to plaintiff's
8 damage in an amount to be shown according to proof.

9 34. The conduct of defendants, and each of them, alleged
10 herein was willful, wanton, malicious, and oppressive, in that
11 defendant knew or should have known that its conduct was
12 unreasonable and or illegal. Furthermore, defendant's acts were
13 carried out in willful and conscious disregard of plaintiff's
14 rights and well-being such as to constitute malicious, despicable
15 conduct within the meaning of California Civil Code §3294,
16 entitling plaintiff to punitive damages in an amount appropriate
17 to punish or make an example of defendant.

18 **SECOND CAUSE OF ACTION**
19 **VIOLATION OF TITLE VII OF THE CIVIL RIGHTS**
20 **ACT OF 1964, AS AMENDED**

21 35. Plaintiff realleges, and incorporates by reference,
22 Paragraphs 1 through 34 of the Amended Complaint as though fully
23 set forth at length herein.

24 **THIRD CAUSE OF ACTION**
25 **BREACH OF THE IMPLIED IN FACT CONTRACT**

26 36. Plaintiff realleges, and incorporates by reference,
27 Paragraphs 1 through 33 of the Amended Complaint as though fully
28 set forth at length herein.

1 37. The conduct, policies, and past practices of defendant
2 and DOES 1 to 5, inclusive, and each of the, and of its agents
3 and employees, as alleged herein, during plaintiff's years of
4 employment with said defendant(s), gave rise to an implied in
5 fact contract between plaintiff and defendant(s) and caused
6 plaintiff to reasonably believe that, if she faithfully and
7 diligently performed the duties of his position that he would be
8 treated fairly and remain in defendant's employ until her reached
9 retirement age. Defendant, and DOES 1 TO 10, inclusive, and each
10 of them, represented that it was an equal opportunity employer
11 who would not intentionally limit or terminate plaintiff's
12 employment, except for good cause only; and that plaintiff would
13 be treated fairly and not discriminated against because of her
14 race, her ethnicity and or disability or perceived disability,
15 and not in retaliation for filing a workers' compensation claim
16 and or for taking off work because of a work related injury.

17 38. Defendants, and each of them, breached this implied in
18 fact covenant by doing the acts and failing to act, as alleged in
19 this complaint.

20 39. As a direct proximate cause of defendants' breach of
21 said implied contract, plaintiff has lost income and sustained
22 damages in an amount to be shown at the time of trial. It is
23 reasonably certain that plaintiff will lose additional income in
24 the future.

25 ////

26 ////

27

28

1 **FOURTH CAUSE OF ACTION**
2 **BREACH OF THE IMPLIED COVENANT OF**
3 **GOOD FAITH AND FAIR DEALING**

4 40. Plaintiff realleges, and incorporates by reference,
5 Paragraphs 1 through 39 of the Amended Complaint as though fully
6 set forth at length herein.

7 41. Into every employment contract there is an implied
8 covenant of good faith and fair dealing requiring each party to
9 the agreement to refrain from acting in a manner which will
10 unfairly deprive the other party from the benefit of the bargain.
11 Defendants, and each of them, breached the implied covenant of
12 good faith and fair dealing owed to plaintiff by the acts or
13 omissions alleged herein.

14 **FIFTH CAUSE OF ACTION**
15 **WRONGFUL TERMINATION IN VIOLATION**
16 **OF PUBLIC POLICY**

17 42. Plaintiff realleges, and incorporates by reference,
18 Paragraphs 1 through 34 of the Complaint as though fully set
19 forth at length herein.

20 43. Defendants, in doing the acts complained about herein,
21 and in failing to acts as complained about herein, violated
22 public policy as set forth in Government Code sections 12920 &
23 12921.

24 **SIXTH CAUSE OF ACTION**
25 **against Xpedx for violation of**
26 **Title VII of the Civil Rights Act**
27 **of 1964, as amended**

28 44. Plaintiff realleges, and incorporates by reference,
29 Paragraphs 1, 4, 6 through 15, 21 through 27, 33, & 34 of the
30 Amended Complaint as though fully set forth at length herein.

1 45. Prior to filing her complaint herein against Xpedx for
2 violation of Title VII of the Civil Rights Act of 1964, as
3 amended, plaintiff exhausted her administrative remedy by filing
4 a complaint with the EEOC against Xpedx. A copy of plaintiff's
5 complaint is marked Exhibit E, attached hereto and incorporated
6 herein by this reference.

7 46. Plaintiff received a Right To Sue Letter from EEOC
8 regarding her EEOC complaint against Xpedx, after she filed the
9 complaint herein. A copy of her EEOC Right To Sue Letter
10 regarding her complaint against Xpedx is marked Exhibit F,
11 attached hereto and incorporated herein by this reference.
12 Plaintiff amended her complaint to add a cause of action against
13 Xpedx within ninety (90) days of receipt of her Right To Sue
14 Letter.

15 SEVENTH CAUSE OF ACTION
16 Against Xpedx for violation of California
Government Code Section 12940, et seq.

17 47. Plaintiff realleges, and incorporates by reference,
18 Paragraphs 1, 4, 6 through 15, 21 through 27, 33, & 34 of the
19 Amended Complaint as though fully set forth at length herein.

20 48. Prior to filing her complaint herein against Xpedx for
21 violation of California Government Code Section 12940, et seq.,
22 plaintiff exhausted her administrative remedy by filing a
23 complaint with the EEOC against Xpedx. A copy of plaintiff's
24 complaint is marked Exhibit E, attached hereto and incorporated
25 herein.

26 49. Plaintiff received a Right To Sue Letter from DFEH
27 regarding her DFEH complaint against Xpedx, after she filed the
28

1 complaint herein. A copy of her DFEL Right To Sue Letter
2 regarding her complaint against Xpedx is marked Exhibit G,
3 attached hereto and incorporated herein by this reference.
4 Plaintiff amended her complaint to add a cause of action against
5 Xpedx within one year from her receipt of her Right To Sue
6 Letter.


7
8 **PRAYER**

9 **WHEREFORE**, Plaintiff prays for judgement against all
10 Defendants, and each of them as follows:

- 11 1. Compensatory and special damages, including damages for
12 mental and emotional distress, in an amount to be determined at
13 the time of trial;
- 14 2. Lost income, past and future;
- 15 3. Punitive and exemplary damages in an amount appropriate
16 to punish and/or make an example of the Defendants sued
17 individually herein to be determined at trial;
- 18 4. Reasonable attorney fees;
- 19 5. Costs of suit incurred herein;
- 20 6. Prejudgment interest at the legal rate on the amount of
21 Plaintiff's lost wages and employment benefits; and
- 22 7. Such other and further relief as the Court deems just
23 and proper.

24 Dated: January 8, 2008

LAW OFFICES OF MICHAEL C. COHEN

25 By: 
26 MICHAEL C. COHEN,
27 Attorney for Plaintiff

EEOC CHARGE # 555-2007-00774

LEKISHA WARE'S EQUAL EMPLOYMENT OPPORTUNITY COMPLAINT AND
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING COMPLAINT FOR
DISCRIMINATION BASED ON RACE, SEX, DISABILITY, PERCEIVED DISABILITY,
AND OR RETALIATION FOR FILING A WORKER'S COMPENSATION CLAIM, AND OR
RECEIVING WORKERS' COMPENSATION BENEFITS

CLAIMANT:

Lekisha Ware
2137 Park Blvd. Apt. 11
Oakland, CA 94606
tele. No. 510-419-0693
SS # 558-57-1693

RECEIVED

AUG 30 2007

EEOC - OLO

ADDRESS WHERE CLAIMANT'S NOTICES SHOULD BE SENT:

Michael C. Cohen, Esq.
Law Offices of Michael C. Cohen
1814 Franklin Street, Suite 900
Oakland, California, 94612
tele. No. 510-832-6436

EMPLOYER:

International Paper, aka XPEDX A division of International Paper
330 Brush Street
Oakland, CA 94607

ADDRESS WHERE NOTICES SHOULD BE SENT:

Brenda V. Thompson
Senior Counsel, Employment and Labor
International Paper Company
6285 Tri-Ridge Blvd.
Loveland, OH 45140
tele. No. 513-965-2966

FACTS GIVING RISE TO CLAIM:

Claimant, Lekisha Ware, is an African American woman. International Paper, aka, XPEDX, a division of International Paper, (International Paper) is her former employer. Ms. Ware was employed by International Paper for six years. During the time she was employed she performed her job duties satisfactorily. She was working as a store associate at a store in Oakland, California, when the store planned to re-located from Oakland to Berkeley, California. Ms. Ware was ready, willing and able to continue working for International Paper, at its new location in Berkeley. Ms. Ware sustained a workers' compensation injury and applied for workers' compensation benefits. Shortly thereafter, Dale Alexander, manager of Human Resources informed her that she was terminated effective May 18, 2007, because of a reduction

EXHIBIT A

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EEOC CHARGE # 555-2007-00774

Lakisha Ware EEOC & DFEH Complaint
Page 2.

in the employer's work force. However, the store recently hired a male to perform the same work Ms. Ware had been performing for the employer.

Ms. Ware contends that she was discriminated because of her race, sex, disability and or perceived disability and or in retaliation for her filing a workers compensation claim, and or receiving workers compensation benefits.

International Paper contends that claimant resigned from her job because she was required to work a different schedule at the Berkeley store than she worked at the Oakland store.

Ms. Ware contends that International Paper's stated reasons for her separation from her job is a pretext, and that the real reason she was terminated from her job was because of her race, sex, disability and or perceived disability and or in retaliation for her filing a workers' compensation claim, and or receiving workers' compensation benefits.

I declare under penalty of perjury, pursuant to the laws of the State of California and pursuant to the laws of the United States of America, that the statements herein are true and correct from my personal knowledge. If sworn under oath I could and would competently testify from my personal knowledge that the statements herein are true and correct and that this declaration was executed in Oakland, California on the date indicated below.

Date: June 27 2007

Lakisha Ware
Lakisha Ware

RECEIVED

AUG 30 2007

EEOC - OLD

EEOC Form 181-a (8/88)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: Lekisha Ware
C/O Michael Cohen, Esq.
1814 Franklin St., Ste 900
Oakland, CA 94612

From: Oakland Local Office
1301 Clay Street
Suite 1170-N
Oakland, CA 94612

☐ On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.	EEOC Representative	Telephone No.
555-2007-00774	Julian F. Malendres, Investigator Support Asst	(510) 637-3242

(See also the additional information enclosed with this form)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964 and/or the Americans with Disabilities Act (ADA): This is your Notice of Right to Sue, Issued under Title VII and/or the ADA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII of the ADA must be filed in a federal or state court WITHIN 90 DAYS of your receipt of this notice; or your right to sue based on the charge will be lost. (The time limit for filing suit based on a state claim may be different.)

- ☐ More than 180 days have passed since the filing of this charge.
- ☒ Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.
- ☒ The EEOC is terminating its processing of this charge.
- ☐ The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed on 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:

- ☐ The EEOC is closing your case. Therefore, your lawsuit under the ADEA must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice. Otherwise, your right to sue based on the above-numbered charge will be lost.
- ☐ The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission

Enclosures(s)


Michelle L. Nardella,
Director

8/30/07
(Date Mailed)

cc: Brenda Thompson
Senior Counsel
INTERNATIONAL PAPER COMPANY
6283 Tri-Ridge Blvd
Loveland, OH 45140

EXHIBIT B

116N77602516.tif - 1/26/2008 12:05:30 PM

STATE OF CALIFORNIA - Civil and Criminal Div.

DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

(SEE ADDRESS CHECKED BELOW)

ARNOLD SCHWARZBERGER, Clerk



TTY # (800) 700-2320

EEOC Number:

555-2007-00774

Case Name:

WARE, Lekisha v. International Paper Co.

Date:

August 30, 2007

☐ H

1001 Tower Way, Suite 250
Oakland, CA 94608
(947) 895-2728

☐ C

1820 E. Shaw Avenue, Suite 150
Fresno, CA 93710
(559) 244-4780

☐ R/S/T

911 West Sixth Street, Suite 1500
Los Angeles, CA 90017
(213) 428-8782

☒ M

1518 Clay Street, Suite 701
Oakland, CA 94612
(510) 822-2847

☐ E

2000 "D" Street, Suite 120
Sacramento, CA 95814
(916) 445-8523

☐ D

1150 Front Street, Suite 5005
San Diego, CA 92101
(619) 867-2881

☐ A

San Francisco District Office
1518 Clay Street, Suite 701
Oakland, CA 94612
(510) 822-2875

☐ G

2670 North First Street, Suite 480
San Jose, CA 95131
(408) 325-0344

☐ K

2101 East Fourth Street, Suite 255-B
Santa Ana, CA 92705
(714) 588-4285

NOTICE TO COMPLAINANT AND RESPONDENT

This is to advise you that the above-referenced complaint is being referred to the California Department of Fair Employment and Housing (DFEH) by the U.S. Equal Employment Opportunity Commission (EEOC). The complaint will be filed in accordance with California Government Code section 12960. This notice constitutes service pursuant to Government Code section 12962.

No response to the DFEH is required by the respondent.

The EEOC will be responsible for the processing of this complaint. DFEH will not be conducting an investigation into this matter. EEOC should be contacted directly for any discussion of this charge. DFEH is closing its case on the basis of "processing waived to another agency."

NOTICE TO COMPLAINANT OF RIGHT-TO-SUE

Since DFEH will not be issuing an accusation, this letter is also your right-to-sue notice. According to Government Code section 12965, subdivision (b), you may bring a civil action under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The lawsuit may be filed in a State of California Superior or Justice Court. Government Code section 12965, subdivision (b), provides that such a civil action must be brought within one year from the date of this notice. Pursuant to Government Code section 12965, subdivision (d)(1), this one-year period will be tolled during the pendency of the EEOC's investigation of your complaint. You should consult an attorney to determine with accuracy the date by which a civil action must be filed. This right to file a civil action may be waived in the event a settlement agreement is signed. Questions about the right to file under federal law should be referred to the EEOC.

The DFEH does not retain case records beyond three years after a complaint is filed.

Remember: This Right-To-Sue Notice allows you to file a private lawsuit in State court.

Sincerely,

WANDA J. KIRBY
Chief Deputy Director

116477812615.X-12/28/2008 12:05:30 PM

Enclosure with EEOC
Form 181-B (3/93)

**INFORMATION RELATED TO FILING SUIT
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court under Federal law.
If you also plan to sue claiming violations of State law, please be aware that time limits and other
provisions of State law may be shorter or more limited than those described below.)*

**PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA),
or the Age Discrimination in Employment Act (ADEA):**

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge within 90 days of the date you receive this Notice. Therefore, you should keep a record of this date. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed within 90 days of the date this Notice was mailed to you (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment back pay due for violations that occurred more than 2 years (3 years) before you file suit may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/00 to 12/1/00, you should file suit before 7/1/02 -- not 12/1/02 -- in order to recover unpaid wages due for July 2000. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

ATTORNEY REPRESENTATION -- Title VII and the ADA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, please make your review request within 6 months of this Notice. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.

110K77602515-1/28/2008 12:06:30 PM

LEKISHA WARE'S EQUAL EMPLOYMENT OPPORTUNITY COMPLAINT AND
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING COMPLAINT AGAINST
INTERNATIONAL PAPER COMPANY FOR DISCRIMINATION BASED ON RACE, SEX,
DISABILITY, PERCEIVED DISABILITY, MEDICAL CONDITION, AND OR
RETALIATION FOR FILING A WORKER'S COMPENSATION CLAIM, AND OR
RECEIVING WORKERS' COMPENSATION BENEFITS

CLAIMANT:

Lekisha Ware
2137 Park Blvd. Apt. 11
Oakland, CA 94606
tele. No. 510-419-0693
SS # 558-57-1693

RECEIVED

NOV 16 2007

EEOC - OLO

ADDRESS WHERE CLAIMANT'S NOTICES SHOULD BE SENT:

Michael C. Cohen, Esq.
Law Offices of Michael C. Cohen
1814 Franklin Street, Suite 900
Oakland, California, 94612
tele. No. 510-832-6436

EMPLOYER:

International Paper Company
4510 Reading Road
Cincinnati, Ohio 45229

ADDRESS WHERE NOTICES SHOULD BE SENT:

KFEDX

General Manager
330 Brush Street
Oakland, CA 94607

Brenda V. Thompson
Senior Counsel, Employment and Labor
International Paper Company
6285 Tri-Ridge Blvd.
Loveland, OH 45140
tele. No. 513-965-2966

International Paper
4510 Reading Road
Cincinnati, Ohio 45229

EXHIBIT C

116M77602615.RT - 1/28/2008 12:05:30 PM

Lekisha Ware EEOC & DFEH
Complaint against International Paper
Page 2.

FACTS GIVING RISE TO CLAIM:

Claimant, Lekisha Ware, is an African American woman. International Paper is her former employer. Ms. Ware was employed by International Paper for six years. During the time she was employed she performed her job duties satisfactorily. She was working for International Paper as a store associate at a store in Oakland, California, when the store planned to re-located from Oakland to Berkeley, California. Ms. Ware was ready, willing and able to continue working for International Paper at its new location in Berkeley. Ms. Ware sustained a back injury on the job in January 2007. Because of her back injury she was placed on light duty and she filed a workers compensation claim. She remained on light duty until International Paper terminated her from her job.

Dale Alexander, manager of Human Resources informed Claimant that she was terminated effective May 18, 2007, because of a reduction in the employer's work force. However, the store hired a male at that time or shortly before or after that date, to perform the same work Ms. Ware had been performing for the employer.

Ms. Ware contends that International Paper discriminated because of her race, sex, disability and or perceived disability, and or her medical condition and or in retaliation for her filing a workers compensation claim, and or receiving workers compensation benefits.

International Paper contends that claimant resigned from her job because she was required to work a different schedule at the Berkeley store than she worked at the Oakland store.

Ms. Ware contends that International Paper's stated reasons for terminating Ms Ware's employment is a pretext, and that the real reason she was terminated from her job was because of her race, sex, disability and or perceived disability and or medical condition and or in retaliation for her filing a workers' compensation claim, and or receiving workers' compensation benefits.

I declare under penalty of perjury, pursuant to the laws of the State of California and pursuant to the laws of the United States of America, that the statements herein are true and correct from my personal knowledge. If sworn under oath I could and would competently testify from my personal knowledge that the statements herein are true and correct and that this declaration was executed in Oakland, California on the date indicated below.

Date: 11-5-07

Lekisha Ware
Lekisha Ware

EEOC Form 161-B (2004)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: Lakisha Ware
 C/O Michael Cohen, Esq.
 1814 Franklin St., Ste 900
 Oakland, CA 94612

From: Oakland Local Office
 1301 Clay Street
 Suite 1170-N
 Oakland, CA 94612

☐ On behalf of person(s) aggrieved whose identity is
 CONFIDENTIAL (20 CFR §1601.7(b))

EEOC Charge No.

EEOC Representative

Telephone No.

855-2008-00160

Julian F. Melendres,
 Investigator Support Asst

(510) 637-3242

(See also the additional information enclosed with this form)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964 and/or the Americans with Disabilities Act (ADA): This is your Notice of Right to Sue, issued under Title VII and/or the ADA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII of the ADA must be filed in a federal or state court WITHIN 90 DAYS of your receipt of this notice; or your right to sue based on it charge will be lost. (The time limit for filing suit based on a state claim may be different.)

- ☐ More than 180 days have passed since the filing of this charge.
- ☒ Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.
- ☒ The EEOC is terminating its processing of this charge.
- ☐ The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:

- ☐ The EEOC is closing your case. Therefore, your lawsuit under the ADEA must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice. Otherwise, your right to sue based on the above-numbered charge will be lost.
- ☐ The EEOC is continuing its handling of your ADEA case. However, if 90 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission

Enclosures(s)


 Michelle L. Nardella,
 Director

11/19/02
 (Date Mailed)

cc: Brenda V. Thompson
 Sr. Counsel, E & L
 INTERNATIONAL PAPER COMPANY
 6288 Tri-Ridge Blvd.
 Loveland, OH 45140

EXHIBIT D

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Enclosure with EEOC
Form 10-8 (2005)

INFORMATION RELATED TO FILING SUIT UNDER THE LAWS ENFORCED BY THE EEOC

*(This information relates to filing suit in Federal or State court under Federal law.
If you also plan to sue claiming violations of State law, please be aware that time limits and other
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ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, please make your review request within 6 months of this Notice. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.

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Lekisha Ware EEOC & DFEH

Complaint against International Paper

EEOC CHARGE # 555-2008-00160

Page 2.

FACTS GIVING RISE TO CLAIM:

Claimant, Lekisha Ware, is an African American woman. International Paper is her former employer. Ms. Ware was employed by International Paper for six years. During the time she was employed she performed her job duties satisfactorily. She was working for International Paper as a store associate at a store in Oakland, California, when the store planned to re-located from Oakland to Berkeley, California. Ms. Ware was ready, willing and able to continue working for International Paper at its new location in Berkeley. Ms. Ware sustained a back injury on the job in January 2007. Because of her back injury she was placed on light duty and she filed a workers compensation claim. She remained on light duty until International Paper terminated her from her job.

Dale Alexander, manager of Human Resources informed Claimant that she was terminated effective May 18, 2007, because of a reduction in the employer's work force. However, the store hired a male at that time or shortly before or after that date, to perform the same work Ms. Ware had been performing for the employer.

Ms. Ware contends that International Paper discriminated because of her race, sex, disability and or perceived disability, and or her medical condition and or in retaliation for her filing a workers compensation claim, and or receiving workers compensation benefits.

International Paper contends that claimant resigned from her job because she was required to work a different schedule at the Berkeley store than she worked at the Oakland store.

Ms. Ware contends that International Paper's stated reasons for terminating Ms Ware's employment is a pretext, and that the real reason she was terminated from her job was because of her race, sex, disability and or perceived disability and or medical condition and or in retaliation for her filing a workers' compensation claim, and or receiving workers' compensation benefits.

I declare under penalty of perjury, pursuant to the laws of the State of California and pursuant to the laws of the United States of America, that the statements herein are true and correct from my personal knowledge. If sworn under oath I could and would competently testify from my personal knowledge that the statements herein are true and correct and that this declaration was executed in Oakland, California on the date indicated below.

Date: 11-5-07

Lekisha Ware
Lekisha Ware

RECEIVED

NOV 19 2007

EEOC - OLO

STATE OF CALIFORNIA - Equal Opportunity Services Agency

ARNOLD MORRISON/DEIR, Gen

DEPARTMENT OF FAIR EMPLOYMENT & HOUSING
 (SEE ADDRESS CHECKED BELOW)



TTY # (800) 700-2320

EEOC Number:
Case Name:

555-2008-00160

**Mrs. Lakisha Ware v International
 Paper**

Date:

November 19, 2007

☐
 H

1001 Tower Way, Suite 250
 Bakersfield, CA 93309
 (805) 858-2729

☐
 C

1320 E. Shaw Avenue, Suite 150
 Fresno, CA 93710
 (559) 244-4790

☐
 R/S/T

811 West Sixth Street, Suite 1500
 Los Angeles, CA 90017
 (213) 439-0798

☒
 M

7575 Clay Street, Suite 707,
 Oakland, CA 94612
 (510) 832-2941

☐
 E

2000 "G" Street, Suite 120
 Sacramento, CA 95814
 (916) 445-8623

☐
 D

1350 Front Street, Suite 9006
 San Diego, CA 92101
 (619) 845-2887

☐
 A

San Francisco District Office
 1575 Clay Street, Suite 701
 Oakland, CA 94612
 (510) 832-2973

☐
 G

2570 North First Street, Suite 480
 San Jose, CA 95131
 (408) 328-0344

☐
 K

2101 East Fourth Street, Suite 255-B
 Santa Ana, CA 92705
 (714) 858-4208

NOTICE TO COMPLAINANT AND RESPONDENT

This is to advise you that the above-referenced complaint is being referred to the California Department of Fair Employment and Housing (DFEH) by the U.S. Equal Employment Opportunity Commission (EEOC). The complaint will be filed in accordance with California Government Code section 12960. This notice constitutes service pursuant to Government Code section 12962.

No response to the DFEH is required by the respondent.

The EEOC will be responsible for the processing of this complaint. DFEH will not be conducting an investigation into this matter. EEOC should be contacted directly for any discussion of the charge. DFEH is closing its case on the basis of "processing waived to another agency."

NOTICE TO COMPLAINANT OF RIGHT-TO-SUE

Since DFEH will not be issuing an accusation, this letter is also your right-to-sue notice. According to Government Code section 12965, subdivision (b), you may bring a civil action under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The lawsuit may be filed in a State of California Superior or Justice Court. Government Code section 12965, subdivision (b), provides that such a civil action must be brought within one year from the date of this notice. Pursuant to Government Code section 12965, subdivision (d)(1), this one-year period will be tolled during the pendency of the EEOC's investigation of your complaint. You should consult an attorney to determine with accuracy the date by which a civil action must be filed. This right to file a civil action may be waived in the event a settlement agreement is signed. Questions about the right to file under federal law should be referred to the EEOC.

The DFEH does not retain case records beyond three years after a complaint is filed.

Remember: This Right-To-Sue Notice allows you to file a private lawsuit in State court.

Sincerely,

Wanda J. Kirby

WANDA J. KIRBY
 Chief Deputy Director

118477802515 BT - 12/28/2008 12:05:30 PM

LEKISHA WARE'S EQUAL EMPLOYMENT OPPORTUNITY COMPLAINT AND
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING COMPLAINT AGAINST
XPEDX, FOR DISCRIMINATION BASED ON RACE, SEX, DISABILITY, PERCEIVED
DISABILITY, MEDICAL CONDITION, AND OR RETALIATION FOR FILING A
WORKER'S COMPENSATION CLAIM, AND OR RECEIVING WORKERS'
COMPENSATION BENEFITS

CLAIMANT:

Lekisha Ware
2137 Park Blvd. Apt. 11
Oakland, CA 94606
tele. No. 510-419-0693
SS # 558-57-1693

ADDRESS WHERE CLAIMANT'S NOTICES SHOULD BE SENT:

Michael C. Cohen, Esq.
Law Offices of Michael C. Cohen
1814 Franklin Street, Suite 900
Oakland, California, 94612
tele. No. 510-832-6436

EMPLOYER:

XPEDX
330 Brush Street
Oakland, CA 94607

ADDRESS WHERE NOTICES SHOULD BE SENT:

XPEDX
General Manager
330 Brush Street
Oakland, CA 94607

Brenda V. Thompson
Senior Counsel, Employment and Labor
International Paper Company
6285 Tri-Ridge Blvd.
Loveland, OH 45140
tele. No. 513-965-2966

International Paper
4510 Reading Road
Cincinnati, Ohio 45229

Exhibit E

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RECEIVED

EEOC CHARGE # 555-2008-00159

Lekisha Ware EEOC & DFEH
Complaint against XPEDX
Page 2.

NOV 19 2007

EEOC - OLO

FACTS GIVING RISE TO CLAIM:

Claimant, Lekisha Ware, is an African American woman. XPEDX is her former employer. Ms. Ware was employed by XPEDX for six years. During the time she was employed she performed her job duties satisfactorily. She was working for XPEDX as a store associate at a store in Oakland, California, when the store planned to re-located from Oakland to Berkeley, California. Ms. Ware was ready, willing and able to continue working for XPEDX, at its new location in Berkeley. Ms. Ware sustained a back injury on the job in January 2007. Because of her back injury she was placed on light duty and she filed a workers compensation claim. She remained on light duty until XPEDX terminated her from her job.

Dale Alexander, manager of Human Resources informed Claimant that she was terminated effective May 18, 2007, because of a reduction in the employer's work force. However, the store hired a male at that time or shortly before or after that date, to perform the same work Ms. Ware had been performing for the employer.

Ms. Ware contends that XPEDX discriminated because of her race, sex, disability and or perceived disability, and or her medical condition and or in retaliation for her filing a workers compensation claim, and or receiving workers compensation benefits.

XPEDX contends that claimant resigned from her job because she was required to work a different schedule at the Berkeley store than she worked at the Oakland store.

Ms. Ware contends that XPEDX's stated reasons for terminating Ms Ware's employment is a pretext, and that the real reason she was terminated from her job was because of her race, sex, disability and or perceived disability and or medical condition and or in retaliation for her filing a workers' compensation claim, and or receiving workers' compensation benefits.

I declare under penalty of perjury, pursuant to the laws of the State of California and pursuant to the laws of the United States of America, that the statements herein are true and correct from my personal knowledge. If sworn under oath I could and would competently testify from my personal knowledge that the statements herein are true and correct and that this declaration was executed in Oakland, California on the date indicated below.

Date: 11-05-07

Lekisha Ware
Lekisha Ware

Exhibit B

110477602615.10 - 1/28/2008 12:05:30 PM

EEOC Form 701-B (2004)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: **Lekisha Ware**
C/O Law Office Michael Cohen
1814 Franklin Street, Suite 80
Oakland, CA 94612

From: **Oakland Local Office**
1301 Clay Street
Suite 1170-N
Oakland, CA 94612

☐ On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1501.7(a))

EEOC Charge No.	EEOC Representative	Telephone No.
556-2008-00159	Julian P. Melendrea, Investigator Support Asst	(510) 637-3242

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964 and/or the Americans with Disabilities Act (ADA): This is your Notice of Right to Sue, issued under Title VII and/or the ADA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII or the ADA must be filed in a federal or state court **WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

- ☐ More than 180 days have passed since the filing of this charge.
- ☒ Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.
- ☒ The EEOC is terminating its processing of this charge.
- ☐ The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:

- ☐ The EEOC is closing your case. Therefore, your lawsuit under the ADEA must be filed in federal or state court **WITHIN 90 DAYS** of your receipt of this Notice. Otherwise, your right to sue based on the above-numbered charge will be lost.
- ☐ The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission

Enclosures(s)


Michelle L. Nardella,
Director

11/22/07
 (Date Mailed)

cc: **Elizabeth Richman**
Human Resources Manager
XPEDIX
30538 Huntwood Ave
Hayward, CA 94544

Exhibit F

11/27/2007 12:15:30 PM

STATE OF CALIFORNIA - Statewide Consumer Rights Agency

DEPARTMENT OF FAIR EMPLOYMENT & HOUSING
(SEE ADDRESS CHECKED BELOW)

ARNOLD M. HARRIS, Director



TTY # (800) 700-2320

EEOC Number:

555-2008-00159

Case Name:

Ma. Lekisha Ware v XPEDX

Date:

November 19, 2007



1001 Tower Way, Suite 250
Bakersfield, CA 93308
(661) 395-9729



1326 E. Shaw Avenue, Suite 150
Fresno, CA 93710
(558) 244-4780



811 West 5th Street, Suite 1800
Los Angeles, CA 90017
(213) 438-8795

R/S/T



1515 Clay Street, Suite 701
Oakland, CA 94612
(810) 822-2941



2000 "O" Street, Suite 120
Sacramento, CA 95814
(916) 445-5523



1380 Penn Street, Suite 3005
San Diego, CA 92101
(619) 448-3881



San Francisco District Office
1515 Clay Street, Suite 701
Oakland, CA 94612
(415) 422-2870



2570 North First Street, Suite 400
San Jose, CA 95131
(408) 325-0344



2101 East Fourth Street, Suite 255-B
Santa Ana, CA 92705
(714) 558-4265

NOTICE TO COMPLAINANT AND RESPONDENT

This is to advise you that the above-referenced complaint is being referred to the California Department of Fair Employment and Housing (DFEH) by the U.S. Equal Employment Opportunity Commission (EEOC). The complaint will be filed in accordance with California Government Code section 12960. This notice constitutes service pursuant to Government Code section 12962.

No response to the DFEH is required by the respondent.

The EEOC will be responsible for the processing of this complaint. DFEH will not be conducting an investigation into this matter. EEOC should be contacted directly for any discussion of the charge. DFEH is closing its case on the basis of "processing waived to another agency."

NOTICE TO COMPLAINANT OF RIGHT-TO-SUE

Since DFEH will not be issuing an accusation, this letter is also your right-to-sue notice. According to Government Code section 12965, subdivision (b), you may bring a civil action under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The lawsuit may be filed in a State of California Superior or Justice Court. Government Code section 12965, subdivision (b), provides that such a civil action must be brought within one year from the date of this notice. Pursuant to Government Code section 12965, subdivision (d)(1), this one-year period will be tolled during the pendency of the EEOC's investigation of your complaint. You should consult an attorney to determine with accuracy the date by which a civil action must be filed. This right to file a civil action may be waived in the event a settlement agreement is signed. Questions about the right to file under federal law should be referred to the EEOC.

The DFEH does not retain case records beyond three years after a complaint is filed.

Remember: This Right-To-Sue Notice allows you to file a private lawsuit in State court.

Sincerely,

WANDA J. KIRBY
Chief Deputy Director

3/28/2008 11:37:00 AM 113877002515.WJ-1/28/2008 12:05:30 PM

1 **PROOF OF SERVICE BY MAIL**

2 I am employed in Fresno County, California. I am over the age of eighteen years
3 and not a party to the within-entitled action. My business address is 8080 North Palm Avenue,
4 Third Floor, Fresno, CA 93711. I am readily familiar with this firm's practice for collection and
5 processing of correspondence for mailing with the United States Postal Services. On, February 27,
6 2008 I placed with this firm at the above address for deposit with the United States Postal Service a
7 true and correct copy of the within document(s):

8 **DEFENDANTS' NOTICE OF REMOVAL**

9 In a sealed envelope, addressed as follows:

10 Michael C. Cohen
11 1814 Franklin Street, Suite 900
12 Oakland, CA 94612

13 Following ordinary business practices, the envelope was sealed and placed for
14 collection and mailing on this date, and would, in the ordinary course of business, be deposited
15 with the United States Postal Service on this date.

16 I declare under penalty of perjury under the laws of the State of California that the
17 above is true and correct.

18 Executed on February 27, 2008 at Fresno, California.

19
20 /s/ NELLIE M. JACQUES
21 Nellie M. Jacques
22
23
24
25
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28

insert in the pouch or folder window a fully completed **Drop Box Filing Information Card**. You may use more than one pouch or folder per filing, *but a separate Information Card must be enclosed for each one.*

(*Please note that the Clerk's Office will retain two copies of all new complaints relating to patents, trademarks and copyrights.)

5. If you wish us to mail you one or more conformed copies that you have provided, you must enclose an appropriately sized, self-addressed, stamped envelope with adequate return postage. Alternatively, if you would like to pick up conformed copies, please mark your return envelope **"FOR MESSENGER PICK UP BY: (NAME, FIRM)."** Your copies will be available for pick-up **after 2:00 p.m.** on the day the drop box is emptied.

6. A filing fee, if required, may be paid by check or money order, payable to "Clerk, U.S. District Court" in an exact amount. *Please do not enclose cash.*

7. Documents deposited in the drop box must be in compliance with all local and federal rules, as appropriate. Documents filed "Under Seal" must be submitted in compliance with Civil L.R. 79-5.

While the information presented above is accurate as of the date of publication, it should not be cited or relied upon as legal authority. It is highly recommended that legal advice be obtained from an attorney or legal association. For filing requirements, please refer to the Federal Rules of Civil Procedure, Federal Rules of Evidence, US Code, Federal Rules of Criminal Procedure, Code of Federal Regulations, and the Local Rules for the Northern District of California.